



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Art Unit: 3643
LARSEN, Jesper Kristoffer	)	Examiner: PRICE, R.
Serial No.: 09/623,426	)	Washington, D.C.
Filed: April 3, 2001	)	December 19, 2002
For: ANIMAL BREEDING SYSTEM	)	Docket No.: LARSEN=1
	)	Confirmation No.: 5642

#2/Election  
Bentley  
12/21/02

ELECTION WITH TRAVERSE

Commissioner of Patents  
Washington, D.C. 20231

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**GROUP 3600**

S i r :

In response to the restriction mailed November 19, 2002, Applicants elect group XII (claim 1, 19-22, 45, 49-57, 67, 68 and 70, "a breeding system with a means for performing a unique identification) with traverse.

The instant application is the national stage of PCT/DK99/00098, filed under 35 USC §371, hence, international unity rules apply. See 35 USC §371; 37 CFR §§1.475, 1.499.

However, in making the rejection, the Examiner invokes MPEP §806.05. The MPEP plainly states that Chapter 800 applies only to national applications filed under 35 USC §111. See MPEP §801.

PCT rule 13.1 says that there is unity if the application relates to one invention only or to "a group of inventions so linked as to form a single general inventive concept". The latter is defined by PCT rule 13.2 to mean a group sharing "one or more of the same or corresponding special technical features", which are those which render the claim, considered as a whole, distinguishable over the art.

Claim 1 defines a breeding system with four required elements (a-d) and two optional elements (e, f). Claims 2-46 are dependent on claim 1 and likewise directed to breeding systems.

Claim 47 is directed to a mudhole for use in a breeding system according to claim 1.

Claim 48 is directed to an "arrangement" comprising a breeding system according to claim 1. Claims 49-57 are dependent on 48 and likewise directed to an arrangement.

Claims 58-65 are drawn to a method of breeding porkers in the breeding system of claim 1 in an individualized manner. Claim 70 is similarly drawn to a method for feeding porkers in the arrangement of claim 48.

Claims 67 and 68 are nominally drawn to "arrangements", but are dependent on method claim 70.

Annex B "Unity of Invention", Part 1 (d) of the PCT Administrative Instructions clearly states that "if the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that dependent on the independent claims". Thus, if claim 1 avoids the prior art, claims 2-47 must be grouped with it.

The PCT concept of a "dependent claim" is set forth in Annex B-1 (c) and requires both containing all the features of another claim and being in the same "category". It goes on to explain that "product", "process", "use" and "apparatus" are separate categories.

While the "breeding system" is a subcombination of an "arrangement", they appear to both be in the same category of claim. Hence, claims 48-57 must likewise be considered dependent claims and joined to claim 1 if the latter avoids the prior art.

The Examiner's attention is further directed to Part B2 of Annex B, and in particular to Examples 8-14.

Claims 58-65 and 70 are clearly in a different category ("method") from claim 1. However, Annex B-1(e)(i) allows the combination of a claim to a product with a claim to a method of using the product.

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The proper basis for classification of claims 67 and 68 is uncertain, but they clearly come under either (c) or (e) of Annex B-1.

Respectfully submitted,

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